



DEPARTMENT OF LABOR

Employment and Training Administration

TA-W-82,313

ICG Knott County, LLC  
a Subsidiary of ICG, Inc.  
a Subsidiary of Arch Coal, Inc.  
Including On-Site Leased Workers from P&P Construction  
Kite, Kentucky

Notice of Negative Determination on Reconsideration

On May 16, 2013, the Department of Labor issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of ICG Knott County, LLC, a subsidiary of ICG, Inc., a subsidiary of Arch Coal, Inc., Kite, Kentucky (subject firm). The Department's Notice was published in the Federal Register on May 30, 2013 (78 FR 32463). The workers are engaged in employment related to the production of bituminous coal. The subject firm includes on-site leased workers of P&P Construction.

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

- (1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;
- (2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or
- (3) If in the opinion of the Certifying Officer, a mis-

interpretation of facts or of the law justified reconsideration of the decision.

The initial investigation resulted in a negative determination based on the findings that worker separations were not attributable to increased imports of bituminous coal (or articles like or directly competitive), by the subject firm or its declining customers, or a shift/acquisition of the production of bituminous coal (or articles like or directly competitive) to/from a foreign country by the workers' firm during the time period under investigation (2011 and 2012).

In the request for reconsideration, a former worker alleged that workers at the subject firm were impacted by the operations of the parent company, Arch Coal, Inc., and the purchasing patterns of its customers. The former worker also alleged that the increased use of natural gas instead of bituminous coal by customers of the subject firm and customers of the parent company led to production declines and worker separations at the subject firm.

Further, according to the allegation, the customers that the subject firm previously supplied with bituminous coal switched to gas for their energy use because the two products are directly competitive. Therefore, the former worker requested that the Department expand the reconsideration investigation to examine the operations of the parent company and to evaluate imports of natural gas.

During the reconsideration investigation, the Department reviewed and confirmed information collected during the initial

investigation, collected additional information from the subject firm and its major customers, and collected and analyzed natural gas data from the U.S. Energy Information Administration and the U.S. Department of Energy.

The reconsideration investigation findings confirmed that neither the subject firm nor its major customers imported articles like or directly competitive with bituminous coal during the relevant period. Additionally, the findings confirmed that the subject firm did not shift the production of bituminous coal to a foreign country or acquire this article, or any articles like or directly competitive, from a foreign country during the period under investigation. The findings of the reconsideration investigation also confirmed that Arch Coal, Inc. acquired the subject firm during the period under investigation but clarified that the subject firm continued to operate independently and retained its own customer base following the acquisition.

During the initial investigation, the Department conducted a customer survey on the major customers of the subject firm. The surveyed customers reported no imports of bituminous coal or articles like or directly competitive. During the reconsideration investigation, the Department contacted the same customers to determine whether these customers had the operational capability to use natural gas and, if so, whether they increased imports of natural gas. The customers did not have any such imports.

No customer survey was conducted on the customers of Arch Coal, Inc., because the subject firm retained its own customer base during the period under investigation.

During the reconsideration investigation, the Department collected natural gas data from the U.S. Energy Information Administration and the U.S. Department of Energy. An analysis of the data revealed that imports of natural gas into the United States declined in the period under investigation while exports of natural gas by the United States increased during this period.

After careful review of the request for reconsideration, previously-submitted information, and information obtained during the reconsideration investigation, the Department determines that 29 CFR 90.18(c) has not been met.

#### Conclusion

After careful review, I determine that the requirements of Section 222 of the Act, 19 U.S.C. § 2272, have not been met and, therefore, deny the petition for group eligibility of ICG Knott County, LLC, a subsidiary of ICG, Inc., a subsidiary of Arch Coal, Inc., including on-site leased workers of P&P Construction, Kite, Kentucky, to apply for adjustment assistance, in accordance with Section 223 of the Act, 19 U.S.C. § 2273.

Signed in Washington, D.C. on this 15th day of August, 2013

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Del Min Amy Chen  
Certifying Officer, Office of  
Trade Adjustment Assistance  
4510-FN-P

[FR Doc. 2013-20815 Filed 08/26/2013 at 8:45 am; Publication  
Date: 08/27/2013]